

MINUTES
Town of Vienna (TOV)
Zoning Board of Appeals (ZBA)
Special Meeting
March 23, 2026

Call to order: ZBA Interim Chairman John Pavelock called the meeting to order at 6:30 pm with the Pledge.

Due to the absence of Mike Taylor (appointed chairman), Nate Juby made a **motion to appoint John Pavelock as the Interim Chairman**, seconded by Josh O’Kay. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor - Absent, Nate Juby - Aye. **Motion Carried 4 to 1.**

Attendance:

ZBA Members: Nathan Juby, John Pavelock, Joshua O’Kay, and Amanda Hewitt. Michael Taylor was unable to attend.

Others: ZBA Secretary Kathy Pavelock, Town Attorney Evan Rossi, Liaison Darrin Smith, Supervisor Jason Pellicy, and a few applicants/residents. Codes/Zoning Officer Reay Walker was unable to attend.

Minutes Approval:

Nate Juby made a **motion to approve the minutes for January 22, 2026, ZBA Special Meeting**, seconded by Josh O’Kay. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Abstain, John Pavelock – Aye, Mike Taylor - Absent, Nate Juby - Aye. **Motion Carried 3 to 2.**

Correspondence: Secretary Pavelock summarized the correspondence since the last ZBA meeting:

- Forwarded information received related to Var2026-01 (Taylor-Sak).
- Submitted registrations for the Local Government Conference to be held on April 21. Kathy Pavelock will forward registration confirmations when they are received.
- Submitted legal notice for the Var2026-01 Public Hearing. Notified the applicant of the cost for the legal notice. Kathy will check with the town clerk for payment of the notice by the applicant.
- Based on the 3/19/2026 Planning Board meeting, we received new applications (Var2026-02 Use Variance and Var2026-03 Interpretation/Area Variance).

Public Hearings:

While waiting for the scheduled time of the public hearing, John Pavelock explained the process for those wishing to speak. Anyone who wishes to comment is asked to sign-in with the secretary. Each speaker will be allowed 5 minutes to speak. Everyone is reminded of the TOV Code of Conduct which is printed on the back of the agenda.

Secretary Pavelock stated that she received no written comments.

6:40 pm Var2026-01 Edith Taylor-Sak; 235.006-4-18.1; 1572 NYS Route 49. Applicant is requesting an interpretation of the Codes Officer issuing Certificate of Occupancy (CoO) for permit B2025-52. CoO was issued at the end of December 2025. Owner of the property is Frederick Sadallah. Parcel 235.006-4-16 was merged into 235.006-4-16.

Amanda Hewitt made the **motion to open the Public Hearing for Var2026-01**, seconded by Nate Juby. No discussion. Poll vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, Nate Juby – Aye, John Pavelock – Aye, Mike Taylor – Absent. **Motion Carried 4 to 1 at 6:40pm.**

Chairman Pavelock asked the only person who signed in to speak:

Edith Taylor-Sak referred to her letter dated February 15, 2026, item 4 and read the definitions of Private Roads and Lot Lines from Zoning Law section 220. She contends that driveways and right of ways for vehicular traffic constitute a private road. Looking at Item 6 the February Letter, she contends that Drive 32 is a private road and not Mr. Sadallah’s personal driveway. Multiple property owners have that right of way for access to Route 49. The ZBA pointed out that Drive 32 was never part of the complaint. Ms. Taylor-Sak explained that it is Drive 32 and MacFarland Road. The deeds do not specify Drive 32 or MacFarland Road but do have right of ways for all drives in that area. The ZBA has a copy of several deeds. She specifically mentioned the property ending in tax IDs -18.2 and -15. She contends that private roads are lot lines and setbacks should have been enforced.

Public Hearing Var2026-01 (cont.)

Ms. Taylor-Sak stated that much of what was submitted for the building permit application was not truthful or accurate. Perhaps it's not Reay's job to read deeds, however the town is responsible. The ordinance has not been followed.

Chairman Pavelock asked if anyone else wanted to speak. Attorney Rossi stated he did not have any comments but wished to include a couple of images for the file. One is the result of a Google Search showing Drive 33. The other is a photo taken by Mr. Rossi of the south side of the structure.

Ms. Taylor-Sak further stated, "I don't want this guy to tear his building down. I have no desire to do that. 'Alls' I want is for me to get my boat in and out of a deeded right away. Just by moving the right of way 10' to the south or whatever the setback, would solve the problem." The ZBA explained that the ZBA does not have the authority to adjust right of ways. As stated before, it is a civil matter.

Amanda Hewitt made the **motion to close the Public Hearing for Var2026-01**, seconded by Josh O'Kay. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, Nate Juby – Aye, John Pavelock – Aye, Mike Taylor – Absent. **Motion Carried 4 to 1 at 6:49pm.**

Unfinished Business:

Var2026-01 Edith Taylor-Sak; 235.006-4-18.1; 1572 NYS Route 49. Applicant is requesting an interpretation of the Codes Officer issuing Certificate of Occupancy (CoO) for permit B2025-52. CoO was issued at the end of December 2025. Owner of the property is Frederick Sadallah. Parcel 235.006-4-16 was merged into 235.006-4-16.

Following the public hearing, the board continued discussions on this interpretation. John researched property files, highway records, and Oneida County records back to 1949 and found no roads named MacFarland Road. He also reviewed Zoning Law section 2045 and found that the Planning Board does not review or approve mergers. He also researched "stays" which are executed based on imminent danger. Attorney Rossi further stated that based on Town Law 267A, there is nothing to stay.

The codes officer does not have access to deeds and therefore we can't expect the codes officer to review deeds before issuing building permits. Edith stated that the first camp was built in 1842 and the road to this camp was called MacFarland Road.

The ZBA has 62 days following the public hearing to render a decision. They will review all of the submitted information and prepare a written decision within the required time period.

Edith further stated "I'm not blaming the Town at all. What he [Sadallah] submitted was not truthful. I'm not saying what Reay did was wrong ... If you don't follow the law of your own town then anyone can do anything ..." The board emphasized that the town and Reay follow the law. Right of ways are civil matters. The board again asked, "What do you want us to do right now?" Edith responded, "All I want you to do is issue a setback. Make them move the road." The board reiterated that right of ways are civil matters. The board will need to figure out if there is anything that we can do.

Amanda Hewitt made the **motion to table Var2026-01 for further investigation**, seconded by Nate Juby. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, Nate Juby – Aye, John Pavelock – Aye, Mike Taylor – Absent. **Motion Carried 4 to 1**

Var2025-02 Justin Hansen; 199.000-1-6.17; 8131 Dixon Rd; Zone RR2; 0.2 acre.

Applicant is requesting a use variance based on the Codes Officer denial of a building permit for an Auto Repair business which is not an allowed use in zone RR2 (Zoning Law section 430B).

This application is tabled until the applicant contacts the secretary when he has the necessary justifications for a Use Variance. We will keep the application open until June 30, 2026.

Secretary Pavelock stated that she has not heard anything from the applicant. Nate Juby made the **motion to table Var2025-02 to await information from the applicant**, seconded by Amanda Hewitt. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, Nate Juby – Aye, John Pavelock – Aye, Mike Taylor – Absent. **Motion Carried 4 to 1**

New Business:

Var2026-03 Payne Construction; 3447 Oswego Rd; 201.000-1-15/-17; RR1. Interpretation of Section 575 for Mine Access. Depending on interpretation, they may also request an area variance for the mine access road. Jason Fleming, Depot Engineering representing owner, Shawn Payne (also present at the meeting), provided a site plan dated 3/20/26, showing the main excavation area including the access road to the excavation area. The plan delimited the residential 500' radius, 110' TOV major excavation setback, 50' NYS DEC mining activity setbacks, and property lines. Before DEC will issue a permit, they need to have a letter from TOV that excludes the "Access Driveway Area" from the Zoning Law definition for Excavation, Major. The applicant applied for a Special Use Permit SUP2026-01 with the Planning Board on March 19, 2026. The Planning Board referred the applicant to the ZBA, since the Planning Board does not interpret Zoning Law. The ZBA reviewed the site plan and the Zoning Law definition of Excavation, Major, "Any area of land used for the purpose of extracting stone, sand, gravel or soil for sale, as a commercial operation; or any excavation that results in excavated materials being removed from the site other than in conjunction with a permitted construction project on the site." The board asked if any of the materials extracted in constructing the access road would be sold. It will not be sold. They contend that the access road construction will be "in conjunction with a permitted construction project on the site." The DEC permit is required prior to obtaining a Special Use Permit. John Pavelock made the **motion to interpret the construction of the access road as presented is not considered Major Excavation**, seconded by Amanda Hewitt. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, Nate Juby – Aye, John Pavelock – Aye, Mike Taylor – Absent. **Motion Carried 4 to 1.** A letter will be prepared and signed by the chairman. The letter will be sent to the applicant who will send it to DEC. The letter will also be sent to the Planning Board for use in discussing the Special Use Permit.

Var2026-02 The Farms of ADL (Brian Kirsch); 2040 NYS Rte 49 (North Bay Fire Dept. is owner of the property); 217.000-1-77.2; Zone HR. The applicant applied for a Special Use Permit SUP2026-02 with the Planning Board on March 19, 2026. The Planning Board referred the applicant to the ZBA, since "Retail Sales and Service, Small" is not an allowed use in the HR Zone. The ZBA discussed the application and plans with Brian Kirsch. He would like to place a pre-fab Farm stand on the lot for seasonal daily operation. The ZBA asked about parking and bathrooms. Since this is the North Bay Fireman's field there is ample parking and existing restrooms. He should get permission from the Fire Department to change the use. Amanda Hewitt made the **motion to declare the application Var2026-02 as essentially complete, take on lead agency for the Use Variance unlisted action SEQR and schedule a public hearing**, seconded by John Pavelock. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, Nate Juby – Aye, John Pavelock – Aye, Mike Taylor – Absent. **Motion Carried 4 to 1.** John Pavelock made the **motion to schedule a public hearing for Var2026-02 for April 29, 2026 at 6:40 pm as part of the special meeting that will start at 6:30 pm**, seconded by Nate Juby. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, Nate Juby – Aye, John Pavelock – Aye, Mike Taylor – Absent. **Motion Carried 4 to 1**

Other: None

John Pavelock **made the motion to adjourn**, seconded by Amanda Hewitt. **Motion Carried 7:45 pm.**

John Pavelock reconvened the meeting at 7:47 pm to discuss the SEQR for Var2026-02. John, Nate, Amanda, and Josh were present.

The board discussed SEQR part 2 and part 3 for Var2026-02. Amanda Hewitt made the **motion to declare lead agency for a coordinated 239m review and no significant environmental impact for Var2026-03**, seconded by John Pavelock. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, Nate Juby – Aye, John Pavelock – Aye, Mike Taylor – Absent. **Motion Carried 4 to 1.**

Amanda Hewitt **made the motion to adjourn**, seconded by John Pavelock. **Motion Carried 7:52 pm.**

Minutes Prepared by:
Kathy M. Pavelock /s/
ZBA Secretary